

Exhibit 38



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Transcript of Thomas Sidley

Date: March 10, 2023

Case: XR Communications, LLC -v- Amazon.com, Inc., et al.

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WORLDWIDE COURT REPORTING & LITIGATION TECHNOLOGY

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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

-----)	
)	
XR COMMUNICATIONS, LLC, dba)	
VIVATO TECHNOLOGIES,)	
)	
Plaintiff,)	
)	
vs.)	
)	
)	
AMAZON.COM, INC., AMAZON.COM)	Civil Action No.
SERVICES LLC, and EERO LLC,)	6:21-cv-00619-ADA
-----)	
)	
CISCO SYSTEMS, INC., MERAKI)	Civil Action No.
LLC,)	6:21-cv-00623-ADA
-----)	
)	
MICROSOFT CORPORATION,)	Civil Action No.
)	6:21-cv-00695-ADA
-----)	
SAMSUNG ELECTRONICS CO., LTD,)	
et al.,)	Civil Action No.
)	6:21-cv-00622-ADA
Defendants.)	
-----)	

Videotaped Deposition of
THOMAS SIDLEY, Conducted Virtually
Friday, March 10, 2023
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13:08 EST
Job No.: 484221
Pages: 1 - 147
Reported by: LISA M BARRETT, RPR, CRR, CRC, CSR

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Transcript of Thomas Sidley
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1 Virtual videotaped deposition of Thomas
2 Sidley,
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19 Taken pursuant to notice before
20 Lisa M. Barrett, a Certified Shorthand
21 Reporter, Registered Professional Reporter,
22 Certified Realtime Reporter, Registered
23 Professional Reporter and a Notary Public in
24 and for the State of Maryland.
25

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A P P E A R A N C E S :

(Via Zoom)

ON BEHALF OF THE PLAINTIFF

and THE WITNESS:

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ON BEHALF OF AMAZON.COM, INC.,

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1 A P P E A R A N C E S: (cont'd)

2 ON BEHALF OF DEFENDANTS CISCO

3 SYSTEMS, MERAKI LLC AND MICROSOFT

4 CORPORATION:

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11 APPEARED ON BEHALF OF DEFENDANT ASUSTEK:

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17

18 ALSO PRESENT:

19

20 Mr. Alan Heifetz, Technician Planet Depos

21 Mr. Alan Ross, Videographer

22

23

24

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1	document.	16:11:21
2	Q You remember working with attorneys at	16:11:26
3	Bullivant though, right?	16:11:28
4	A I don't have a firm recollection.	16:11:29
5	Q You were a client for Bullivant; do you	16:11:37
6	remember that?	16:11:39
7	A I don't have a firm recollection.	16:11:39
8	Q But do you remember requesting legal	16:11:45
9	services from Bullivant during your time at	16:11:48
10	Aequitas?	16:11:51
11	A I don't recall specific instances.	16:11:54
12	Q Okay, we don't need specific instances.	16:12:07
13	I think it would be crazy for me to	16:12:11
14	expect you to remember specific instances from	16:12:13
15	2009 but is it a fair characterization to say that	16:12:17
16	you were a client for Bullivant attorneys in 2009?	16:12:27
17	A By looking at this billing that appears	16:12:34
18	to be the case.	16:12:36
19	Q Okay.	16:12:39
20	All right, Mr. Heifetz, if we could go	16:12:40
21	to page -- BHB75.	16:12:51
22	And Mr. Sidley I would point your	16:13:15
23	attention to the first entry on August 13, 2009.	16:13:18
24	A Okay.	16:13:21
25	Q Just to place this in time, this is	16:13:22

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1	about two weeks before the first petition for	16:13:24
2	revival that we saw earlier dated August 28, 2009.	16:13:27
3	Do you see this time entry from	16:13:31
4	Ann Pahk on August 13, 2009. Her name is at the	16:13:37
5	bottom of the block of text.	16:13:41
6	A I see Ann Pahk's name at the bottom of	16:13:41
7	that text.	16:13:44
8	Q Do you recognize that name "Ann Pahk"?	16:13:46
9	A I have no recollection of that name.	16:13:49
10	Q You don't think you ever talked to her?	16:13:50
11	A I have no recollection of that name.	16:13:53
12	Q Okay. And then the latter half of this	16:14:02
13	block of this text says:	16:14:03
14	"For directed wireless communication, US	16:14:04
15	Patent Application Number 10/700,329 in	16:14:04
16	anticipation of filing petition for revival of	16:14:09
17	unintentionally abandoned patent application with	16:14:13
18	the [USPTO] ..." [As read.]	16:14:16
19	Do you see that?	16:14:18
20	A I read that, yes.	16:14:20
21	Q Sorry, right before that it says,	16:14:22
22	"Prepare draft response to office action."	16:14:23
23	Do you see that?	16:14:27
24	A I see that text as well.	16:14:28
25	Q So Ann Pahk was working on a response	16:14:29

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1	to the office action in anticipation of filing a	16:14:34
2	petition to revival; that's what this says?	16:14:36
3	MR. WANG: Objection to form.	16:14:39
4	THE WITNESS: I mean, I see what is	16:14:47
5	written on the billing statement there.	16:14:48
6	BY MS. LEE:	16:14:53
7	Q Okay. And then do you see the second	16:14:53
8	entry for August 19, 2009 is for Carl Schwedler?	16:14:56
9	A That's dated August 17th, "Review of	16:15:05
10	prior art and file history"?	16:15:13
11	Q Sorry, it's the second August 19 entry.	16:15:15
12	A Oh, excuse me.	16:15:20
13	Q Right there.	16:15:21
14	A (Reading):	16:15:22
15	"Search of prior art and begin drafting	16:15:22
16	amendment and revival documents."	16:15:24
17	I read that, yes.	16:15:26
18	Q Correct. So on August 19, 2009, Carl	16:15:27
19	Schwedler was also working on revival documents,	16:15:30
20	right?	16:15:33
21	MR. WANG: Objection to form.	16:15:36
22	THE WITNESS: Well, there was a billing	16:15:37
23	amount for that service.	16:15:38
24	BY MS. LEE:	16:15:39
25	Q Okay. And then on the next page, the	16:15:39

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1	last -- sorry -- if we can go back up a page, the	16:15:51
2	last entry is from Robert Moore on August 21st,	16:16:00
3	2009; do you see that?	16:16:08
4	A Yes:	16:16:11
5	"Conference with Ms. Pahk with regard to	16:16:11
6	patent application revival matters; Robert Moore".	16:16:15
7	And a billing for \$138?	16:16:18
8	Q Correct. And that .4, that means .4	16:16:22
9	hours, correct?	16:16:27
10	A That's correct, yes.	16:16:27
11	Q So .4, that's around 20 minutes?	16:16:29
12	A Yes, I accept that, yes. I've never	16:16:39
13	billed --	16:16:42
14	-- (overspeaking) --	16:16:42
15	Q That's okay, that's okay, I'm glad we	16:16:44
16	can agree on something.	16:16:46
17	Does this refresh your recollection as	16:16:48
18	to who Robert Moore was or what kind of work he	16:16:49
19	was doing for you?	16:16:52
20	A Not at all.	16:16:54
21	Q Was Robert Moore a patent attorney?	16:17:00
22	A I don't recall Robert Moore, I mean	16:17:05
23	other than the name.	16:17:08
24	Q Did you directly work with any patent	16:17:08
25	application attorneys at Bullivant?	16:17:10

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1	A	I don't recall.	16:17:12
2	Q	You don't recall ever working with any	16:17:16
3		patent attorneys or you don't recall --	16:17:19
4	A	I don't recall --	16:17:21
5	Q	-- whether you did?	16:17:21
6	A	I don't recall working with any patent	16:17:23
7		attorneys.	16:17:25
8	Q	Okay. I will represent to you I looked	16:17:26
9		up who Robert Moore is. He's a securities	16:17:35
10		attorney who doesn't appear to have any patent	16:17:38
11		experience.	16:17:40
12		Do you have any idea why he would be	16:17:41
13		talking to Ms. Pahk about the 329 patent revival	16:17:44
14		application for 20 minutes?	16:17:47
15	A	I have no recollection of this	16:17:54
16		transaction or why that billing exists.	16:17:55
17	Q	Okay. Let's go to page BHB84.	16:18:16
18		And the first entry dated November 30	16:18:27
19		is also for Robert Moore.	16:18:29
20		The first part of this time entry says:	16:18:43
21		"Receive, review, and respond to emails from	16:18:45
22		Mr. Sidley and conferences with patent counsel	16:18:47
23		with regard to report to potential buyer."	16:18:50
24		Do you see that?	16:18:53
25	A	Yes, I read that.	16:18:54

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1	Q	Do you recall receiving any emails or	16:18:59
2		having discussions with Mr. Moore about this time	16:19:01
3		entry?	16:19:07
4	A	I have no recollection of this	16:19:09
5		transaction.	16:19:10
6	Q	Does this refresh your recollection as	16:19:13
7		to what Mr. Moore was doing for Aequitas at the	16:19:15
8		time?	16:19:22
9	A	Not at all.	16:19:23
10	Q	You don't remember even who he was.	16:19:36
11	A	I can't picture him. The name	16:19:38
12		resonates but I can't even picture what he looks	16:19:42
13		like.	16:19:44
14	Q	Okay. So the second part of this time	16:19:45
15		entry says:	16:20:04
16		"Receive and review response and report of	16:20:05
17		patent counsel and email to Mr. Sidley with regard	16:20:07
18		to communications to purchaser as to patent	16:20:09
19		revival status."	16:20:12
20		Do you see that?	16:20:14
21	A	Yes, I read that.	16:20:14
22	Q	Do you recall any emails or	16:20:16
23		conversations with Mr. Moore about communications	16:20:19
24		to purchasers as to patent revival status?	16:20:22
25	A	Again, Annie, I have no recollection of	16:20:26

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1	this transaction.	16:20:30
2	Q Okay. As you saw earlier, one of the	16:20:59
3	requirements to revive a patent application is	16:21:09
4	that statement of unintentional delay; do you	16:21:11
5	remember that? Do you remember our conversation	16:21:15
6	about that?	16:21:17
7	MR. WANG: Objection to form.	16:21:18
8	THE WITNESS: Annie, I'll be honest	16:21:21
9	with you, you've thrown a lot of information at me	16:21:22
10	so I -- if we could go back and review it, I...	16:21:25
11	BY MS. LEE:	16:21:29
12	Q Sure, yeah.	16:21:29
13	Mr. Heifetz, if we could put up the	16:21:30
14	revival based on unintentional delay document	16:21:41
15	again. Yep, that's the one.	16:21:44
16	Do you remember seeing this?	16:21:47
17	A Yes, I do.	16:21:49
18	Q Okay. And do you remember that we	16:21:52
19	talked about -- if we can scroll down a little	16:21:54
20	bit, Mr. Heifetz, requirement number 3 was a	16:21:58
21	statement that the entire delay between the	16:22:01
22	required reply and the filing of the grantable	16:22:04
23	petition was unintentional; do you remember	16:22:08
24	talking about that?	16:22:11
25	A I can -- under (3) I just re-read it,	16:22:12

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C E R T I F I C A T E

I, Lisa M. Barrett, RPR, CRR, CRC, do hereby certify that the witness was first duly sworn by me and that I was authorized to and did report said proceedings.

I further certify that the foregoing transcript is a true and correct record of the proceedings; that said proceedings were taken by me stenographically and thereafter reduced to typewriting under my supervision; that reading and signing was not requested; and that I am neither attorney nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken; and that I have no interest, financial or otherwise, in this case.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of March, 2023.



Lisa M. Barrett, RPR, CRR, CRC, CSR

Certified Realtime Court Reporter

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